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1 AMENDMENT TO HOUSE BILL 4311

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4311, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Election Code is amended by changing  
6 Sections 3-1 and 3-5 as follows:

7 (10 ILCS 5/3-1) (from Ch. 46, par. 3-1)

8 Sec. 3-1. Voter eligibility.

9 (a) Except as provided in subsection (b) of this Section,  
10 every ~~Every~~ person (i) who has resided in this State and in the  
11 election district 30 days next preceding any election therein,  
12 or (ii) who has resided in and is registered to vote from the  
13 election district 30 days next preceding any election therein  
14 and has moved to another election district in this State within  
15 said 30 days and has made and subscribed to the affidavit  
16 provided in paragraph (b) of Section 17-10 of this Act, or  
17 (iii) who has resided in and is registered to vote from the  
18 election district 30 days next preceding any election therein  
19 and has not moved to another residence but whose address has  
20 changed as a result of implementation of a 9-1-1 emergency  
21 telephone system and has made and subscribed to the affidavit  
22 provided in subsection (a) of Section 17-10, and who is a  
23 citizen of the United States, of the age of 18 or more years is  
24 entitled to vote at such election for all offices and on all

1 propositions. Any military establishment within the boundaries  
2 of Illinois is "in this State" even though the government of  
3 the United States may have exclusive jurisdiction over such  
4 establishment.

5 (b) A person convicted of a sex offense as defined in  
6 Section 2 of the Sex Offender Registration Act that is a felony  
7 and that is committed on or after the effective date of this  
8 amendatory Act of the 94th General Assembly is ineligible to  
9 vote at any election during the duration of the sex offender's  
10 natural life.

11 (Source: P.A. 90-664, eff. 7-30-98.)

12 (10 ILCS 5/3-5) (from Ch. 46, par. 3-5)

13 Sec. 3-5. Voting by offender.

14 (a) No person who has been legally convicted, in this or  
15 another State or in any federal court, of any crime, and is  
16 serving a sentence of confinement in any penal institution, or  
17 who has been convicted under any section of this Act and is  
18 serving a sentence of confinement in any penal institution,  
19 shall vote, offer to vote, attempt to vote or be permitted to  
20 vote at any election until his release from confinement.

21 Confinement for purposes of this Section shall include any  
22 person convicted and imprisoned but granted a furlough as  
23 provided by Section 3-11-1 of the "Unified Code of  
24 Corrections", or admitted to a work release program as provided  
25 by Section 3-13-2 of the "Unified Code of Corrections".  
26 Confinement shall not include any person convicted and  
27 imprisoned but released on parole.

28 Confinement or detention in a jail pending acquittal or  
29 conviction of a crime is not a disqualification for voting.

30 (b) In addition to the limitations on voting under  
31 subsection (a), a person who has been convicted of a sex  
32 offense as defined in Section 2 of the Sex Offender  
33 Registration Act that is a felony and that is committed on or

1 after the effective date of this amendatory Act of the 94th  
2 General Assembly is ineligible to vote for the duration of his  
3 or her natural life.

4 (Source: P.A. 94-637, eff. 1-1-06.)

5 Section 10. The Criminal Code of 1961 is amended by  
6 changing Section 11-9.3 as follows:

7 (720 ILCS 5/11-9.3)

8 Sec. 11-9.3. Presence within school zone by child sex  
9 offenders prohibited.

10 (a) It is unlawful for a child sex offender to knowingly be  
11 present in any school building, on real property comprising any  
12 school, or in any conveyance owned, leased, or contracted by a  
13 school to transport students to or from school or a school  
14 related activity when persons under the age of 18 are present  
15 in the building, on the grounds or in the conveyance, unless  
16 the offender is a parent or guardian of a student attending the  
17 school and the parent or guardian is: (i) attending a  
18 conference at the school with school personnel to discuss the  
19 progress of his or her child academically or socially, (ii)  
20 participating in child review conferences in which evaluation  
21 and placement decisions may be made with respect to his or her  
22 child regarding special education services, or (iii) attending  
23 conferences to discuss other student issues concerning his or  
24 her child such as retention and promotion and notifies the  
25 principal of the school of his or her presence at the school or  
26 unless the offender has permission to be present from the  
27 superintendent or the school board or in the case of a private  
28 school from the principal. In the case of a public school, if  
29 permission is granted, the superintendent or school board  
30 president must inform the principal of the school where the sex  
31 offender will be present. Notification includes the nature of  
32 the sex offender's visit and the hours in which the sex

1 offender will be present in the school. The sex offender is  
2 responsible for notifying the principal's office when he or she  
3 arrives on school property and when he or she departs from  
4 school property. If the sex offender is to be present in the  
5 vicinity of children, the sex offender has the duty to remain  
6 under the direct supervision of a school official. A child sex  
7 offender who violates this provision is guilty of a Class 4  
8 felony.

9 Nothing in this Section shall be construed to infringe upon  
10 the constitutional right of a child sex offender who committed  
11 the offense before the effective date of this amendatory Act of  
12 the 94th General Assembly or who committed a misdemeanor sex  
13 offense on or after the effective date of this amendatory Act  
14 of the 94th General Assembly to be present in a school building  
15 that is used as a polling place for the purpose of voting.

16 (1) (Blank; or)

17 (2) (Blank.)

18 (b) It is unlawful for a child sex offender to knowingly  
19 loiter within 500 feet of a school building or real property  
20 comprising any school while persons under the age of 18 are  
21 present in the building or on the grounds, unless the offender  
22 is a parent or guardian of a student attending the school and  
23 the parent or guardian is: (i) attending a conference at the  
24 school with school personnel to discuss the progress of his or  
25 her child academically or socially, (ii) participating in child  
26 review conferences in which evaluation and placement decisions  
27 may be made with respect to his or her child regarding special  
28 education services, or (iii) attending conferences to discuss  
29 other student issues concerning his or her child such as  
30 retention and promotion and notifies the principal of the  
31 school of his or her presence at the school or has permission  
32 to be present from the superintendent or the school board or in  
33 the case of a private school from the principal. In the case of  
34 a public school, if permission is granted, the superintendent

1 or school board president must inform the principal of the  
2 school where the sex offender will be present. Notification  
3 includes the nature of the sex offender's visit and the hours  
4 in which the sex offender will be present in the school. The  
5 sex offender is responsible for notifying the principal's  
6 office when he or she arrives on school property and when he or  
7 she departs from school property. If the sex offender is to be  
8 present in the vicinity of children, the sex offender has the  
9 duty to remain under the direct supervision of a school  
10 official. A child sex offender who violates this provision is  
11 guilty of a Class 4 felony.

12 (1) (Blank; or)

13 (2) (Blank.)

14 (b-5) It is unlawful for a child sex offender to knowingly  
15 reside within 500 feet of a school building or the real  
16 property comprising any school that persons under the age of 18  
17 attend. Nothing in this subsection (b-5) prohibits a child sex  
18 offender from residing within 500 feet of a school building or  
19 the real property comprising any school that persons under 18  
20 attend if the property is owned by the child sex offender and  
21 was purchased before the effective date of this amendatory Act  
22 of the 91st General Assembly.

23 (c) Definitions. In this Section:

24 (1) "Child sex offender" means any person who:

25 (i) has been charged under Illinois law, or any  
26 substantially similar federal law or law of another  
27 state, with a sex offense set forth in paragraph (2) of  
28 this subsection (c) or the attempt to commit an  
29 included sex offense, and:

30 (A) is convicted of such offense or an attempt  
31 to commit such offense; or

32 (B) is found not guilty by reason of insanity  
33 of such offense or an attempt to commit such  
34 offense; or

1 (C) is found not guilty by reason of insanity  
2 pursuant to subsection (c) of Section 104-25 of the  
3 Code of Criminal Procedure of 1963 of such offense  
4 or an attempt to commit such offense; or

5 (D) is the subject of a finding not resulting  
6 in an acquittal at a hearing conducted pursuant to  
7 subsection (a) of Section 104-25 of the Code of  
8 Criminal Procedure of 1963 for the alleged  
9 commission or attempted commission of such  
10 offense; or

11 (E) is found not guilty by reason of insanity  
12 following a hearing conducted pursuant to a  
13 federal law or the law of another state  
14 substantially similar to subsection (c) of Section  
15 104-25 of the Code of Criminal Procedure of 1963 of  
16 such offense or of the attempted commission of such  
17 offense; or

18 (F) is the subject of a finding not resulting  
19 in an acquittal at a hearing conducted pursuant to  
20 a federal law or the law of another state  
21 substantially similar to subsection (a) of Section  
22 104-25 of the Code of Criminal Procedure of 1963  
23 for the alleged violation or attempted commission  
24 of such offense; or

25 (ii) is certified as a sexually dangerous person  
26 pursuant to the Illinois Sexually Dangerous Persons  
27 Act, or any substantially similar federal law or the  
28 law of another state, when any conduct giving rise to  
29 such certification is committed or attempted against a  
30 person less than 18 years of age; or

31 (iii) is subject to the provisions of Section 2 of  
32 the Interstate Agreements on Sexually Dangerous  
33 Persons Act.

34 Convictions that result from or are connected with the

1 same act, or result from offenses committed at the same  
2 time, shall be counted for the purpose of this Section as  
3 one conviction. Any conviction set aside pursuant to law is  
4 not a conviction for purposes of this Section.

5 (2) Except as otherwise provided in paragraph (2.5),  
6 "sex offense" means:

7 (i) A violation of any of the following Sections of  
8 the Criminal Code of 1961: 10-7 (aiding and abetting  
9 child abduction under Section 10-5(b)(10)),  
10 10-5(b)(10) (child luring), 11-6 (indecent  
11 solicitation of a child), 11-6.5 (indecent  
12 solicitation of an adult), 11-9 (public indecency when  
13 committed in a school, on the real property comprising  
14 a school, or on a conveyance, owned, leased, or  
15 contracted by a school to transport students to or from  
16 school or a school related activity), 11-9.1 (sexual  
17 exploitation of a child), 11-15.1 (soliciting for a  
18 juvenile prostitute), 11-17.1 (keeping a place of  
19 juvenile prostitution), 11-18.1 (patronizing a  
20 juvenile prostitute), 11-19.1 (juvenile pimping),  
21 11-19.2 (exploitation of a child), 11-20.1 (child  
22 pornography), 11-21 (harmful material), 12-14.1  
23 (predatory criminal sexual assault of a child), 12-33  
24 (ritualized abuse of a child), 11-20 (obscenity) (when  
25 that offense was committed in any school, on real  
26 property comprising any school, in any conveyance  
27 owned, leased, or contracted by a school to transport  
28 students to or from school or a school related  
29 activity). An attempt to commit any of these offenses.

30 (ii) A violation of any of the following Sections  
31 of the Criminal Code of 1961, when the victim is a  
32 person under 18 years of age: 12-13 (criminal sexual  
33 assault), 12-14 (aggravated criminal sexual assault),  
34 12-15 (criminal sexual abuse), 12-16 (aggravated

1 criminal sexual abuse). An attempt to commit any of  
2 these offenses.

3 (iii) A violation of any of the following Sections  
4 of the Criminal Code of 1961, when the victim is a  
5 person under 18 years of age and the defendant is not a  
6 parent of the victim:

7 10-1 (kidnapping),

8 10-2 (aggravated kidnapping),

9 10-3 (unlawful restraint),

10 10-3.1 (aggravated unlawful restraint).

11 An attempt to commit any of these offenses.

12 (iv) A violation of any former law of this State  
13 substantially equivalent to any offense listed in  
14 clause (2) (i) of subsection (c) of this Section.

15 (2.5) For the purposes of subsection (b-5) only, a sex  
16 offense means:

17 (i) A violation of any of the following Sections of  
18 the Criminal Code of 1961:

19 10-5(b)(10) (child luring), 10-7 (aiding and

20 abetting child abduction under Section

21 10-5(b)(10)), 11-6 (indecent solicitation of a

22 child), 11-6.5 (indecent solicitation of an

23 adult), 11-15.1 (soliciting for a juvenile

24 prostitute), 11-17.1 (keeping a place of juvenile

25 prostitution), 11-18.1 (patronizing a juvenile

26 prostitute), 11-19.1 (juvenile pimping), 11-19.2

27 (exploitation of a child), 11-20.1 (child

28 pornography), 12-14.1 (predatory criminal sexual

29 assault of a child), or 12-33 (ritualized abuse of

30 a child). An attempt to commit any of these

31 offenses.

32 (ii) A violation of any of the following Sections  
33 of the Criminal Code of 1961, when the victim is a  
34 person under 18 years of age: 12-13 (criminal sexual

1 assault), 12-14 (aggravated criminal sexual assault),  
2 12-16 (aggravated criminal sexual abuse), and  
3 subsection (a) of Section 12-15 (criminal sexual  
4 abuse). An attempt to commit any of these offenses.

5 (iii) A violation of any of the following Sections  
6 of the Criminal Code of 1961, when the victim is a  
7 person under 18 years of age and the defendant is not a  
8 parent of the victim:

- 9 10-1 (kidnapping),  
10 10-2 (aggravated kidnapping),  
11 10-3 (unlawful restraint),  
12 10-3.1 (aggravated unlawful restraint).

13 An attempt to commit any of these offenses.

14 (iv) A violation of any former law of this State  
15 substantially equivalent to any offense listed in this  
16 paragraph (2.5) of this subsection.

17 (3) A conviction for an offense of federal law or the  
18 law of another state that is substantially equivalent to  
19 any offense listed in paragraph (2) of subsection (c) of  
20 this Section shall constitute a conviction for the purpose  
21 of this Article. A finding or adjudication as a sexually  
22 dangerous person under any federal law or law of another  
23 state that is substantially equivalent to the Sexually  
24 Dangerous Persons Act shall constitute an adjudication for  
25 the purposes of this Section.

26 (4) "School" means a public or private pre-school,  
27 elementary, or secondary school.

28 (5) "Loiter" means:

29 (i) Standing, sitting idly, whether or not the  
30 person is in a vehicle or remaining in or around school  
31 property.

32 (ii) Standing, sitting idly, whether or not the  
33 person is in a vehicle or remaining in or around school  
34 property, for the purpose of committing or attempting

1 to commit a sex offense.

2 (iii) Entering or remaining in a building in or  
3 around school property, other than the offender's  
4 residence.

5 (6) "School official" means the principal, a teacher,  
6 or any other certified employee of the school, the  
7 superintendent of schools or a member of the school board.

8 (d) Sentence. A person who violates this Section is guilty  
9 of a Class 4 felony.

10 (Source: P.A. 94-158, eff. 7-11-05; 94-164, eff. 1-1-06;  
11 94-170, eff. 7-11-05; revised 8-19-05.)

12 Section 15. The Unified Code of Corrections is amended by  
13 changing Section 5-5-3 as follows:

14 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

15 Sec. 5-5-3. Disposition.

16 (a) Except as provided in Section 11-501 of the Illinois  
17 Vehicle Code, every person convicted of an offense shall be  
18 sentenced as provided in this Section.

19 (b) The following options shall be appropriate  
20 dispositions, alone or in combination, for all felonies and  
21 misdemeanors other than those identified in subsection (c) of  
22 this Section:

23 (1) A period of probation.

24 (2) A term of periodic imprisonment.

25 (3) A term of conditional discharge.

26 (4) A term of imprisonment.

27 (5) An order directing the offender to clean up and  
28 repair the damage, if the offender was convicted under  
29 paragraph (h) of Section 21-1 of the Criminal Code of 1961  
30 (now repealed).

31 (6) A fine.

32 (7) An order directing the offender to make restitution

1 to the victim under Section 5-5-6 of this Code.

2 (8) A sentence of participation in a county impact  
3 incarceration program under Section 5-8-1.2 of this Code.

4 (9) A term of imprisonment in combination with a term  
5 of probation when the offender has been admitted into a  
6 drug court program under Section 20 of the Drug Court  
7 Treatment Act.

8 Neither a fine nor restitution shall be the sole  
9 disposition for a felony and either or both may be imposed only  
10 in conjunction with another disposition.

11 (c) (1) When a defendant is found guilty of first degree  
12 murder the State may either seek a sentence of imprisonment  
13 under Section 5-8-1 of this Code, or where appropriate seek  
14 a sentence of death under Section 9-1 of the Criminal Code  
15 of 1961.

16 (2) A period of probation, a term of periodic  
17 imprisonment or conditional discharge shall not be imposed  
18 for the following offenses. The court shall sentence the  
19 offender to not less than the minimum term of imprisonment  
20 set forth in this Code for the following offenses, and may  
21 order a fine or restitution or both in conjunction with  
22 such term of imprisonment:

23 (A) First degree murder where the death penalty is  
24 not imposed.

25 (B) Attempted first degree murder.

26 (C) A Class X felony.

27 (D) A violation of Section 401.1 or 407 of the  
28 Illinois Controlled Substances Act, or a violation of  
29 subdivision (c) (1) or (c) (2) of Section 401 of that Act  
30 which relates to more than 5 grams of a substance  
31 containing heroin or cocaine or an analog thereof.

32 (E) A violation of Section 5.1 or 9 of the Cannabis  
33 Control Act.

34 (F) A Class 2 or greater felony if the offender had

1           been convicted of a Class 2 or greater felony within 10  
2           years of the date on which the offender committed the  
3           offense for which he or she is being sentenced, except  
4           as otherwise provided in Section 40-10 of the  
5           Alcoholism and Other Drug Abuse and Dependency Act.

6           (F-5) A violation of Section 24-1, 24-1.1, or  
7           24-1.6 of the Criminal Code of 1961 for which  
8           imprisonment is prescribed in those Sections.

9           (G) Residential burglary, except as otherwise  
10          provided in Section 40-10 of the Alcoholism and Other  
11          Drug Abuse and Dependency Act.

12          (H) Criminal sexual assault.

13          (I) Aggravated battery of a senior citizen.

14          (J) A forcible felony if the offense was related to  
15          the activities of an organized gang.

16          Before July 1, 1994, for the purposes of this  
17          paragraph, "organized gang" means an association of 5  
18          or more persons, with an established hierarchy, that  
19          encourages members of the association to perpetrate  
20          crimes or provides support to the members of the  
21          association who do commit crimes.

22          Beginning July 1, 1994, for the purposes of this  
23          paragraph, "organized gang" has the meaning ascribed  
24          to it in Section 10 of the Illinois Streetgang  
25          Terrorism Omnibus Prevention Act.

26          (K) Vehicular hijacking.

27          (L) A second or subsequent conviction for the  
28          offense of hate crime when the underlying offense upon  
29          which the hate crime is based is felony aggravated  
30          assault or felony mob action.

31          (M) A second or subsequent conviction for the  
32          offense of institutional vandalism if the damage to the  
33          property exceeds \$300.

34          (N) A Class 3 felony violation of paragraph (1) of

1 subsection (a) of Section 2 of the Firearm Owners  
2 Identification Card Act.

3 (O) A violation of Section 12-6.1 of the Criminal  
4 Code of 1961.

5 (P) A violation of paragraph (1), (2), (3), (4),  
6 (5), or (7) of subsection (a) of Section 11-20.1 of the  
7 Criminal Code of 1961.

8 (Q) A violation of Section 20-1.2 or 20-1.3 of the  
9 Criminal Code of 1961.

10 (R) A violation of Section 24-3A of the Criminal  
11 Code of 1961.

12 (S) (Blank).

13 (T) A second or subsequent violation of the  
14 Methamphetamine Control and Community Protection Act.

15 (3) (Blank).

16 (4) A minimum term of imprisonment of not less than 10  
17 consecutive days or 30 days of community service shall be  
18 imposed for a violation of paragraph (c) of Section 6-303  
19 of the Illinois Vehicle Code.

20 (4.1) (Blank).

21 (4.2) Except as provided in paragraph (4.3) of this  
22 subsection (c), a minimum of 100 hours of community service  
23 shall be imposed for a second violation of Section 6-303 of  
24 the Illinois Vehicle Code.

25 (4.3) A minimum term of imprisonment of 30 days or 300  
26 hours of community service, as determined by the court,  
27 shall be imposed for a second violation of subsection (c)  
28 of Section 6-303 of the Illinois Vehicle Code.

29 (4.4) Except as provided in paragraph (4.5) and  
30 paragraph (4.6) of this subsection (c), a minimum term of  
31 imprisonment of 30 days or 300 hours of community service,  
32 as determined by the court, shall be imposed for a third or  
33 subsequent violation of Section 6-303 of the Illinois  
34 Vehicle Code.

1           (4.5) A minimum term of imprisonment of 30 days shall  
2 be imposed for a third violation of subsection (c) of  
3 Section 6-303 of the Illinois Vehicle Code.

4           (4.6) A minimum term of imprisonment of 180 days shall  
5 be imposed for a fourth or subsequent violation of  
6 subsection (c) of Section 6-303 of the Illinois Vehicle  
7 Code.

8           (5) The court may sentence an offender convicted of a  
9 business offense or a petty offense or a corporation or  
10 unincorporated association convicted of any offense to:

11                   (A) a period of conditional discharge;

12                   (B) a fine;

13                   (C) make restitution to the victim under Section  
14 5-5-6 of this Code.

15           (5.1) In addition to any penalties imposed under  
16 paragraph (5) of this subsection (c), and except as  
17 provided in paragraph (5.2) or (5.3), a person convicted of  
18 violating subsection (c) of Section 11-907 of the Illinois  
19 Vehicle Code shall have his or her driver's license,  
20 permit, or privileges suspended for at least 90 days but  
21 not more than one year, if the violation resulted in damage  
22 to the property of another person.

23           (5.2) In addition to any penalties imposed under  
24 paragraph (5) of this subsection (c), and except as  
25 provided in paragraph (5.3), a person convicted of  
26 violating subsection (c) of Section 11-907 of the Illinois  
27 Vehicle Code shall have his or her driver's license,  
28 permit, or privileges suspended for at least 180 days but  
29 not more than 2 years, if the violation resulted in injury  
30 to another person.

31           (5.3) In addition to any penalties imposed under  
32 paragraph (5) of this subsection (c), a person convicted of  
33 violating subsection (c) of Section 11-907 of the Illinois  
34 Vehicle Code shall have his or her driver's license,

1 permit, or privileges suspended for 2 years, if the  
2 violation resulted in the death of another person.

3 (6) In no case shall an offender be eligible for a  
4 disposition of probation or conditional discharge for a  
5 Class 1 felony committed while he was serving a term of  
6 probation or conditional discharge for a felony.

7 (7) When a defendant is adjudged a habitual criminal  
8 under Article 33B of the Criminal Code of 1961, the court  
9 shall sentence the defendant to a term of natural life  
10 imprisonment.

11 (8) When a defendant, over the age of 21 years, is  
12 convicted of a Class 1 or Class 2 felony, after having  
13 twice been convicted in any state or federal court of an  
14 offense that contains the same elements as an offense now  
15 classified in Illinois as a Class 2 or greater Class felony  
16 and such charges are separately brought and tried and arise  
17 out of different series of acts, such defendant shall be  
18 sentenced as a Class X offender. This paragraph shall not  
19 apply unless (1) the first felony was committed after the  
20 effective date of this amendatory Act of 1977; and (2) the  
21 second felony was committed after conviction on the first;  
22 and (3) the third felony was committed after conviction on  
23 the second. A person sentenced as a Class X offender under  
24 this paragraph is not eligible to apply for treatment as a  
25 condition of probation as provided by Section 40-10 of the  
26 Alcoholism and Other Drug Abuse and Dependency Act.

27 (9) A defendant convicted of a second or subsequent  
28 offense of ritualized abuse of a child may be sentenced to  
29 a term of natural life imprisonment.

30 (10) (Blank).

31 (11) The court shall impose a minimum fine of \$1,000  
32 for a first offense and \$2,000 for a second or subsequent  
33 offense upon a person convicted of or placed on supervision  
34 for battery when the individual harmed was a sports

1 official or coach at any level of competition and the act  
2 causing harm to the sports official or coach occurred  
3 within an athletic facility or within the immediate  
4 vicinity of the athletic facility at which the sports  
5 official or coach was an active participant of the athletic  
6 contest held at the athletic facility. For the purposes of  
7 this paragraph (11), "sports official" means a person at an  
8 athletic contest who enforces the rules of the contest,  
9 such as an umpire or referee; "athletic facility" means an  
10 indoor or outdoor playing field or recreational area where  
11 sports activities are conducted; and "coach" means a person  
12 recognized as a coach by the sanctioning authority that  
13 conducted the sporting event.

14 (12) A person may not receive a disposition of court  
15 supervision for a violation of Section 5-16 of the Boat  
16 Registration and Safety Act if that person has previously  
17 received a disposition of court supervision for a violation  
18 of that Section.

19 (d) In any case in which a sentence originally imposed is  
20 vacated, the case shall be remanded to the trial court. The  
21 trial court shall hold a hearing under Section 5-4-1 of the  
22 Unified Code of Corrections which may include evidence of the  
23 defendant's life, moral character and occupation during the  
24 time since the original sentence was passed. The trial court  
25 shall then impose sentence upon the defendant. The trial court  
26 may impose any sentence which could have been imposed at the  
27 original trial subject to Section 5-5-4 of the Unified Code of  
28 Corrections. If a sentence is vacated on appeal or on  
29 collateral attack due to the failure of the trier of fact at  
30 trial to determine beyond a reasonable doubt the existence of a  
31 fact (other than a prior conviction) necessary to increase the  
32 punishment for the offense beyond the statutory maximum  
33 otherwise applicable, either the defendant may be re-sentenced  
34 to a term within the range otherwise provided or, if the State

1 files notice of its intention to again seek the extended  
2 sentence, the defendant shall be afforded a new trial.

3 (e) In cases where prosecution for aggravated criminal  
4 sexual abuse under Section 12-16 of the Criminal Code of 1961  
5 results in conviction of a defendant who was a family member of  
6 the victim at the time of the commission of the offense, the  
7 court shall consider the safety and welfare of the victim and  
8 may impose a sentence of probation only where:

9 (1) the court finds (A) or (B) or both are appropriate:

10 (A) the defendant is willing to undergo a court  
11 approved counseling program for a minimum duration of 2  
12 years; or

13 (B) the defendant is willing to participate in a  
14 court approved plan including but not limited to the  
15 defendant's:

16 (i) removal from the household;

17 (ii) restricted contact with the victim;

18 (iii) continued financial support of the  
19 family;

20 (iv) restitution for harm done to the victim;

21 and

22 (v) compliance with any other measures that  
23 the court may deem appropriate; and

24 (2) the court orders the defendant to pay for the  
25 victim's counseling services, to the extent that the court  
26 finds, after considering the defendant's income and  
27 assets, that the defendant is financially capable of paying  
28 for such services, if the victim was under 18 years of age  
29 at the time the offense was committed and requires  
30 counseling as a result of the offense.

31 Probation may be revoked or modified pursuant to Section  
32 5-6-4; except where the court determines at the hearing that  
33 the defendant violated a condition of his or her probation  
34 restricting contact with the victim or other family members or

1 commits another offense with the victim or other family  
2 members, the court shall revoke the defendant's probation and  
3 impose a term of imprisonment.

4 For the purposes of this Section, "family member" and  
5 "victim" shall have the meanings ascribed to them in Section  
6 12-12 of the Criminal Code of 1961.

7 (f) This Article shall not deprive a court in other  
8 proceedings to order a forfeiture of property, to suspend or  
9 cancel a license, to remove a person from office, or to impose  
10 any other civil penalty.

11 (g) Whenever a defendant is convicted of an offense under  
12 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
13 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
14 of the Criminal Code of 1961, the defendant shall undergo  
15 medical testing to determine whether the defendant has any  
16 sexually transmissible disease, including a test for infection  
17 with human immunodeficiency virus (HIV) or any other identified  
18 causative agent of acquired immunodeficiency syndrome (AIDS).  
19 Any such medical test shall be performed only by appropriately  
20 licensed medical practitioners and may include an analysis of  
21 any bodily fluids as well as an examination of the defendant's  
22 person. Except as otherwise provided by law, the results of  
23 such test shall be kept strictly confidential by all medical  
24 personnel involved in the testing and must be personally  
25 delivered in a sealed envelope to the judge of the court in  
26 which the conviction was entered for the judge's inspection in  
27 camera. Acting in accordance with the best interests of the  
28 victim and the public, the judge shall have the discretion to  
29 determine to whom, if anyone, the results of the testing may be  
30 revealed. The court shall notify the defendant of the test  
31 results. The court shall also notify the victim if requested by  
32 the victim, and if the victim is under the age of 15 and if  
33 requested by the victim's parents or legal guardian, the court  
34 shall notify the victim's parents or legal guardian of the test

1 results. The court shall provide information on the  
2 availability of HIV testing and counseling at Department of  
3 Public Health facilities to all parties to whom the results of  
4 the testing are revealed and shall direct the State's Attorney  
5 to provide the information to the victim when possible. A  
6 State's Attorney may petition the court to obtain the results  
7 of any HIV test administered under this Section, and the court  
8 shall grant the disclosure if the State's Attorney shows it is  
9 relevant in order to prosecute a charge of criminal  
10 transmission of HIV under Section 12-16.2 of the Criminal Code  
11 of 1961 against the defendant. The court shall order that the  
12 cost of any such test shall be paid by the county and may be  
13 taxed as costs against the convicted defendant.

14 (g-5) When an inmate is tested for an airborne communicable  
15 disease, as determined by the Illinois Department of Public  
16 Health including but not limited to tuberculosis, the results  
17 of the test shall be personally delivered by the warden or his  
18 or her designee in a sealed envelope to the judge of the court  
19 in which the inmate must appear for the judge's inspection in  
20 camera if requested by the judge. Acting in accordance with the  
21 best interests of those in the courtroom, the judge shall have  
22 the discretion to determine what if any precautions need to be  
23 taken to prevent transmission of the disease in the courtroom.

24 (h) Whenever a defendant is convicted of an offense under  
25 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
26 defendant shall undergo medical testing to determine whether  
27 the defendant has been exposed to human immunodeficiency virus  
28 (HIV) or any other identified causative agent of acquired  
29 immunodeficiency syndrome (AIDS). Except as otherwise provided  
30 by law, the results of such test shall be kept strictly  
31 confidential by all medical personnel involved in the testing  
32 and must be personally delivered in a sealed envelope to the  
33 judge of the court in which the conviction was entered for the  
34 judge's inspection in camera. Acting in accordance with the

1 best interests of the public, the judge shall have the  
2 discretion to determine to whom, if anyone, the results of the  
3 testing may be revealed. The court shall notify the defendant  
4 of a positive test showing an infection with the human  
5 immunodeficiency virus (HIV). The court shall provide  
6 information on the availability of HIV testing and counseling  
7 at Department of Public Health facilities to all parties to  
8 whom the results of the testing are revealed and shall direct  
9 the State's Attorney to provide the information to the victim  
10 when possible. A State's Attorney may petition the court to  
11 obtain the results of any HIV test administered under this  
12 Section, and the court shall grant the disclosure if the  
13 State's Attorney shows it is relevant in order to prosecute a  
14 charge of criminal transmission of HIV under Section 12-16.2 of  
15 the Criminal Code of 1961 against the defendant. The court  
16 shall order that the cost of any such test shall be paid by the  
17 county and may be taxed as costs against the convicted  
18 defendant.

19 (i) All fines and penalties imposed under this Section for  
20 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
21 Vehicle Code, or a similar provision of a local ordinance, and  
22 any violation of the Child Passenger Protection Act, or a  
23 similar provision of a local ordinance, shall be collected and  
24 disbursed by the circuit clerk as provided under Section 27.5  
25 of the Clerks of Courts Act.

26 (j) In cases when prosecution for any violation of Section  
27 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
28 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
29 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
30 Code of 1961, any violation of the Illinois Controlled  
31 Substances Act, any violation of the Cannabis Control Act, or  
32 any violation of the Methamphetamine Control and Community  
33 Protection Act results in conviction, a disposition of court  
34 supervision, or an order of probation granted under Section 10

1 of the Cannabis Control Act, Section 410 of the Illinois  
2 Controlled Substance Act, or Section 70 of the Methamphetamine  
3 Control and Community Protection Act of a defendant, the court  
4 shall determine whether the defendant is employed by a facility  
5 or center as defined under the Child Care Act of 1969, a public  
6 or private elementary or secondary school, or otherwise works  
7 with children under 18 years of age on a daily basis. When a  
8 defendant is so employed, the court shall order the Clerk of  
9 the Court to send a copy of the judgment of conviction or order  
10 of supervision or probation to the defendant's employer by  
11 certified mail. If the employer of the defendant is a school,  
12 the Clerk of the Court shall direct the mailing of a copy of  
13 the judgment of conviction or order of supervision or probation  
14 to the appropriate regional superintendent of schools. The  
15 regional superintendent of schools shall notify the State Board  
16 of Education of any notification under this subsection.

17 (j-5) A defendant at least 17 years of age who is convicted  
18 of a felony and who has not been previously convicted of a  
19 misdemeanor or felony and who is sentenced to a term of  
20 imprisonment in the Illinois Department of Corrections shall as  
21 a condition of his or her sentence be required by the court to  
22 attend educational courses designed to prepare the defendant  
23 for a high school diploma and to work toward a high school  
24 diploma or to work toward passing the high school level Test of  
25 General Educational Development (GED) or to work toward  
26 completing a vocational training program offered by the  
27 Department of Corrections. If a defendant fails to complete the  
28 educational training required by his or her sentence during the  
29 term of incarceration, the Prisoner Review Board shall, as a  
30 condition of mandatory supervised release, require the  
31 defendant, at his or her own expense, to pursue a course of  
32 study toward a high school diploma or passage of the GED test.  
33 The Prisoner Review Board shall revoke the mandatory supervised  
34 release of a defendant who wilfully fails to comply with this

1 subsection (j-5) upon his or her release from confinement in a  
2 penal institution while serving a mandatory supervised release  
3 term; however, the inability of the defendant after making a  
4 good faith effort to obtain financial aid or pay for the  
5 educational training shall not be deemed a wilful failure to  
6 comply. The Prisoner Review Board shall recommit the defendant  
7 whose mandatory supervised release term has been revoked under  
8 this subsection (j-5) as provided in Section 3-3-9. This  
9 subsection (j-5) does not apply to a defendant who has a high  
10 school diploma or has successfully passed the GED test. This  
11 subsection (j-5) does not apply to a defendant who is  
12 determined by the court to be developmentally disabled or  
13 otherwise mentally incapable of completing the educational or  
14 vocational program.

15 (k) A court may not impose a sentence or disposition for a  
16 felony or misdemeanor that requires the defendant to be  
17 implanted or injected with or to use any form of birth control.

18 (l) (A) Except as provided in paragraph (C) of subsection  
19 (l), whenever a defendant, who is an alien as defined by  
20 the Immigration and Nationality Act, is convicted of any  
21 felony or misdemeanor offense, the court after sentencing  
22 the defendant may, upon motion of the State's Attorney,  
23 hold sentence in abeyance and remand the defendant to the  
24 custody of the Attorney General of the United States or his  
25 or her designated agent to be deported when:

26 (1) a final order of deportation has been issued  
27 against the defendant pursuant to proceedings under  
28 the Immigration and Nationality Act, and

29 (2) the deportation of the defendant would not  
30 deprecate the seriousness of the defendant's conduct  
31 and would not be inconsistent with the ends of justice.

32 Otherwise, the defendant shall be sentenced as  
33 provided in this Chapter V.

34 (B) If the defendant has already been sentenced for a

1 felony or misdemeanor offense, or has been placed on  
2 probation under Section 10 of the Cannabis Control Act,  
3 Section 410 of the Illinois Controlled Substances Act, or  
4 Section 70 of the Methamphetamine Control and Community  
5 Protection Act, the court may, upon motion of the State's  
6 Attorney to suspend the sentence imposed, commit the  
7 defendant to the custody of the Attorney General of the  
8 United States or his or her designated agent when:

9 (1) a final order of deportation has been issued  
10 against the defendant pursuant to proceedings under  
11 the Immigration and Nationality Act, and

12 (2) the deportation of the defendant would not  
13 deprecate the seriousness of the defendant's conduct  
14 and would not be inconsistent with the ends of justice.

15 (C) This subsection (1) does not apply to offenders who  
16 are subject to the provisions of paragraph (2) of  
17 subsection (a) of Section 3-6-3.

18 (D) Upon motion of the State's Attorney, if a defendant  
19 sentenced under this Section returns to the jurisdiction of  
20 the United States, the defendant shall be recommitted to  
21 the custody of the county from which he or she was  
22 sentenced. Thereafter, the defendant shall be brought  
23 before the sentencing court, which may impose any sentence  
24 that was available under Section 5-5-3 at the time of  
25 initial sentencing. In addition, the defendant shall not be  
26 eligible for additional good conduct credit for  
27 meritorious service as provided under Section 3-6-6.

28 (m) A person convicted of criminal defacement of property  
29 under Section 21-1.3 of the Criminal Code of 1961, in which the  
30 property damage exceeds \$300 and the property damaged is a  
31 school building, shall be ordered to perform community service  
32 that may include cleanup, removal, or painting over the  
33 defacement.

34 (n) The court may sentence a person convicted of a

1 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
2 Code of 1961 (i) to an impact incarceration program if the  
3 person is otherwise eligible for that program under Section  
4 5-8-1.1, (ii) to community service, or (iii) if the person is  
5 an addict or alcoholic, as defined in the Alcoholism and Other  
6 Drug Abuse and Dependency Act, to a substance or alcohol abuse  
7 program licensed under that Act.

8 (o) The court shall impose as part of the sentence of a  
9 person convicted of a sex offense as defined in Section 2 of  
10 the Sex Offender Registration Act that is a felony and that is  
11 committed on or after the effective date of this amendatory Act  
12 of the 94th General Assembly that the person register as a sex  
13 offender under the Sex Offender Registration Act. The  
14 registration requirements imposed by this subsection (o) are a  
15 part of the sentence. Nothing in this subsection (o) shall be  
16 construed to imply that any registration requirements are a  
17 part of the sentence of a person convicted of a felony sex  
18 offense committed before the effective date of this amendatory  
19 Act of the 94th General Assembly or of a person convicted of or  
20 placed on supervision for a misdemeanor sex offense.

21 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,  
22 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
23 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,  
24 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,  
25 eff. 9-11-05; revised 8-19-05.)

26 Section 20. The Sex Offender Registration Act is amended by  
27 changing Section 7 as follows:

28 (730 ILCS 150/7) (from Ch. 38, par. 227)

29 Sec. 7. Duration of registration. A person who has been  
30 adjudicated to be sexually dangerous and is later released or  
31 found to be no longer sexually dangerous and discharged, shall  
32 register for the period of his or her natural life. A sexually

1 violent person or sexual predator shall register for the period  
2 of his or her natural life after conviction or adjudication if  
3 not confined to a penal institution, hospital, or other  
4 institution or facility, and if confined, for the period of his  
5 or her natural life after parole, discharge, or release from  
6 any such facility. A person convicted of a sex offense that is  
7 a felony and that is committed on or after the effective date  
8 of this amendatory Act of the 94th General Assembly who is  
9 required to register under this Article shall be required to  
10 register for a period of his or her natural life. Any other  
11 person who is required to register under this Article shall be  
12 required to register for a period of 10 years after conviction  
13 or adjudication if not confined to a penal institution,  
14 hospital or any other institution or facility, and if confined,  
15 for a period of 10 years after parole, discharge or release  
16 from any such facility. A sex offender who is allowed to leave  
17 a county, State, or federal facility for the purposes of work  
18 release, education, or overnight visitations shall be required  
19 to register within 5 days of beginning such a program.  
20 Liability for registration terminates at the expiration of 10  
21 years from the date of conviction or adjudication if not  
22 confined to a penal institution, hospital or any other  
23 institution or facility and if confined, at the expiration of  
24 10 years from the date of parole, discharge or release from any  
25 such facility, providing such person does not, during that  
26 period, again become liable to register under the provisions of  
27 this Article. Reconfinement due to a violation of parole or  
28 other circumstances that relates to the original conviction or  
29 adjudication shall extend the period of registration to 10  
30 years after final parole, discharge, or release. The Director  
31 of State Police, consistent with administrative rules, shall  
32 extend for 10 years the registration period of any sex  
33 offender, as defined in Section 2 of this Act, who fails to  
34 comply with the provisions of this Article. The registration

1 period for any sex offender who fails to comply with any  
2 provision of the Act shall extend the period of registration by  
3 10 years beginning from the first date of registration after  
4 the violation. If the registration period is extended, the  
5 Department of State Police shall send a registered letter to  
6 the law enforcement agency where the sex offender resides  
7 within 3 days after the extension of the registration period.  
8 The sex offender shall report to that law enforcement agency  
9 and sign for that letter. One copy of that letter shall be kept  
10 on file with the law enforcement agency of the jurisdiction  
11 where the sex offender resides and one copy shall be returned  
12 to the Department of State Police.

13 (Source: P.A. 93-979, eff. 8-20-04; 94-166, eff. 1-1-06;  
14 94-168, eff. 1-1-06; revised 8-19-05.)

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.".